

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

REBECCA M. HURLA

Claimant

VS.

SHAWNEE MISSION MEDICAL CENTER

Respondent

Self-Insured

)
)
)
)
)
)
)

Docket No. 220,737

ORDER

Claimant requested review of the preliminary hearing Order dated April 23, 1997, entered by Assistant Director Brad E. Avery.

ISSUES

The Assistant Director denied claimant's request for preliminary hearing benefits and indicated claimant produced insufficient evidence that her knee injury arose out of and in the course of her employment. Claimant requested the Appeals Board to review that issue.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the entire record, for purposes of preliminary hearing the Appeals Board finds as follows:

The preliminary hearing Order should be affirmed.

The Appeals Board finds claimant's left knee gave out on January 29, 1997, while she was walking down the hallway of respondent's medical center. Immediately before the incident, claimant had been pushing a patient in a wheelchair. Shortly after that incident,

claimant experienced a second episode where her left knee again gave out. Claimant then sought treatment in the respondent's emergency room.

Because the accident occurred while claimant was at work, the accident occurred in the course of claimant's employment. However, the evidence does not presently establish the accident arose out of the employment which is a prerequisite to recovery. See K.S.A. 44-501(a) and Newman v. Bennett, 212 Kan. 562, 512 P.2d 497 (1973).

The phrase "out of" employment points to the cause or origin of the worker's accident and requires some causal connection between the accident and the employment. An accidental injury arises out of employment when there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the resulting injury. An injury arises out of employment if it arises out of the nature, condition, obligations, and incidents of the employment. Kindel v. Ferco Rental, Inc., 258 Kan. 272, 899 P.2d 1058 (1995).

At this stage of the proceeding, the record is devoid of a medical expert's opinion or other persuasive evidence that claimant's employment caused or contributed in any manner to the accident or resultant injury. Therefore, claimant has not established a causal relationship between her employment and accident.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated April 23, 1997, entered by Assistant Director Brad E. Avery should be, and hereby is, affirmed.

IT IS SO ORDERED.

Dated this ____ day of June 1997.

BOARD MEMBER

c: Michael R. Wallace, Shawnee Mission, KS
H. Wayne Powers, Overland Park, KS
Brad E. Avery, Assistant Director
Philip S. Harness, Director